

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LATWAHN MCELROY,)	No.: 1:20-cv-00658-NONE-SAB (PC)
)	
Plaintiff,)	
)	
v.)	<u>ORDER ADOPTING FINDINGS AND</u>
)	<u>RECOMMENDATIONS, AND DENYING</u>
GOMEZ, et al.,)	<u>PLAINTIFF'S MOTION FOR TEMPORARY</u>
)	<u>RESTRAINING ORDER</u>
)	
Defendants.)	(Doc. Nos. 11, 13)
)	
)	

Plaintiff Latwahn McElroy is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Plaintiff's complaint was screened on June 11, 2020, and the assigned magistrate judge concluded that it did not state any cognizable claims. (Doc. No. 8.) Plaintiff was afforded an opportunity to amend his complaint, but he has yet to do so. (*See id.*)

On June 18, 2020, plaintiff filed a motion for a temporary restraining order. (Doc. No. 15.) On June 16, 2020, the magistrate judge issued findings and recommendations recommending that the motion for a temporary restraining order be denied. (Doc. No. 11.) The findings and recommendations were served on plaintiff and contained notice that objections were to be filed within fourteen days. (*Id.*) Plaintiff filed objections on June 29, 2020. (Doc. No. 18.)

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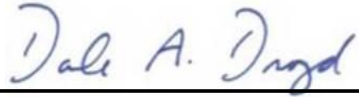
1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a *de*
2 *novo* review of this case. Having carefully reviewed the entire file, including plaintiff's objections, the
3 court finds the findings and recommendations to be supported by the record and by proper analysis.
4 As the findings and recommendations correctly point out, the court cannot find at this time that
5 plaintiff is likely to succeed on the merits of his claims – a prerequisite for issuing injunctive relief –
6 because his complaint has been screened and found not to state any cognizable claims in its current
7 form. Moreover, the court agrees with the findings and recommendations that plaintiff's motion for a
8 temporary restraining order fails to explain how he is likely to suffer irreparable harm in the absence
9 of the issuance of an injunction. Plaintiff merely mentions that defendants have failed to prevent his
10 exposure to "infectious material" but fails to explain with any clarity under what circumstances this is
11 occurring. (Doc. No. 18 at 3.) Plaintiff likewise mentions that defendants are withholding "sanitary
12 and incontinent supplies," but fails to explain why he requires these supplies or how the lack of those
13 supplies is related to any claim presented by him in his case. (*Id.* at 2.)

14 Accordingly:

- 15 1. The findings and recommendations filed on June 16, 2020, are adopted in full; and
- 16 2. Plaintiff's motion for a preliminary injunction, filed on June 15, 2020 (Doc. No. 11), is
17 denied.

18 IT IS SO ORDERED.

19 Dated: July 16, 2020

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22 UNITED STATES DISTRICT JUDGE
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